

Application No. 09/764718

REMARKS

All 16 claims in the originally filed application were rejected under § 102 or § 103. Claims 1-8 were rejected as being fully anticipated by the patent to Petitto, claims 1-6 and 9-11 were rejected under § 102 as being clearly anticipated by the patent to Compton, and claims 12-16 were rejected under § 103 as being unpatentable over Petitto in view of Compton or vice versa.

Before discussing the amendment to the specification and claims, it is felt beneficial to briefly point out broad distinctions between the present invention and the prior art. While the Examiner has dismissed the fact that the present invention relates to paperboard containers as being of patentable significance by stating that paperboard is a well-known material for containers and its use would have been an obvious design choice in view of the disclosures in Petitto and Compton, applicant does not agree. In fact, the processes of forming paperboard containers and plastic containers are quite different. Even in forming plastic containers the processes can be quite different depending on whether one is press forming the plastic or injection molding. For example, when injection molding plastics, cavities in the mold of various thicknesses can be filled with a flowable plastic material, but such cavities are not filled when compression forming sheets of plastic. Even the process described in the patents to Compton and Petitto are different. As disclosed in Compton in col. 3, lines 14-15, it is concerned with injection molding of plastic, and in such processes, cavities of different thickness can be filled with the flowable plastic so that the container walls can be of varying thickness as shown. In Petitto, however, the walls of the container are of uniform thickness even though lugs are formed in said walls with the lug wall thickness also being uniform and the same. The Petitto patent in col. 5, lines 53-57 mentions the product can be injection molded or compression formed which is possible due to the uniform thickness of the container walls. If the container walls were of varying thickness, it is not believed compression forming would be an option. In other words, if one were working with plastics, one can achieve different results by injection molding than one can by compression molding as plastic cannot normally be compression molded in a manner such that the wall thickness varies.

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The plastic sheet from which materials are compression molded is merely deformed but its wall thickness remains uniform as is evident in the container disclosed in the patent to Petitto. As mentioned above, even though lugs and the like are formed during the compression molding process, the lugs as well as the remainder of the sidewalls of the containers have a uniform wall thickness between inner and outer surfaces thereof. This is typical of conventional compression molding processes. In the Compton patent, however, the containers are injection molded so that the wall thickness can vary as it does at locations where the projections 23 are provided. As will be appreciated, even when working strictly with plastics, the methods of forming are critical to the final product, and some products cannot be made by the same processes as other products.

The present invention is even more distinct in that the material from which the containers are made is at least partially paperboard and the containers are press formed in a manner so as to create sidewalls that vary in thickness and in fact create bulges in the form of side by side projections which are thicker than remaining locations in the sidewalls. Accordingly, the container of the present invention is press formed from a paperboard material and has sidewalls of varying thicknesses at predetermined locations to improve the nesting capabilities of the containers. A plastic material, by contrast, and to applicant's knowledge, could not be press formed in a manner to provide sidewalls with varying thicknesses and particularly with bulges of the type designed in the container of the present invention. In fact, part of the success in obtaining the relatively thick regions in the sidewall results from the fact that the paperboard material has been prescored so that pleat-like areas are defined on the sidewalls which can bulge into recessed zones in the punch and die used to press form the containers. None of this is even relevant in the forming of plastic containers, and accordingly it is felt that the art of forming plastic containers is quite distinct from the art of press forming paperboard containers.

With that background, reference is made to the amended claims which are felt to clearly and patentably distinguish the claimed subject matter from the prior art. Looking first at claim 1, it now is directed to a nestable press formed container made at least partially of paperboard with the container having a continuous sidewall having inner and outer surfaces that define a sidewall thickness therebetween and wherein there is a bulge projecting inwardly from the inner surface

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of the sidewall and at least one bulge projecting outwardly from the outer surface of the sidewall with the thickness of the sidewall being greater at at least some locations along said bulges than at other locations on the sidewall. The claim is clearly related to a press formed container made at least partially of paperboard so as to distinguish it from plastic containers and particularly those that might be injection molded and further wherein the container has sidewall thicknesses that vary so that they are thicker along regions of bulging than at other locations. While the Compton reference shows sidewalls that have regions of varying sidewall thickness, they are formed in an injection molded plastic container which is quite distinct from the present invention as claimed. While the Petitto patent states that it is possible to press form the container disclosed therein, it will be appreciated that the thickness of the sidewalls are uniform throughout even though they are deformed into the formation of various lugs and the like. It is important to note the wall thickness of the lugs is the same as that of the remainder of the sidewalls which is consistent with the compression molding of plastic containers. Accordingly, it is felt claim 1 is patentably distinct from the prior art. The remaining claims in the application are dependent upon claim 1 and are therefore felt to be allowable for the same reason. Claims 4 and 11 have been amended to state the relatively thick locations in the sidewall are at the peripherally spaced ribs which in combination define the claimed bulges.

Claims 13-15 were previously included to recite the fact that the container is formed from a material that at least includes paperboard, but since this limitation has now been included in claim 1, these claims have been cancelled.

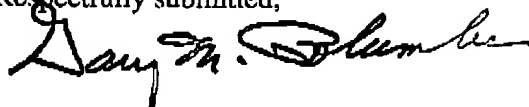
Attached hereto is a marked-up version of the changes made to the specification and claims by the current amendment. The attached page is captioned "Version with markings to show changes made."

Since each of the claims in the application is now felt to be in allowable condition and there have been no other objections or rejections of the application, it is felt that it is in condition for allowance and such action is courteously requested.

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Signed at Denver, Colorado, this 13th day of December 2001.

Respectfully submitted,



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VERSION WITH MARKINGS TO SHOW CHANGES MADE

In the Specification:

Paragraph beginning at page 7, line 9 has been amended as follows:

The container 20 is provided with a ring-like bulge 28 that projects inwardly from the inner surface 30 of the sidewall 22 immediately adjacent to the peripheral rim 26 with the ring-like bulge being provided in the form of a plurality of vertically extending and uniformly spaced ribs 32. As best seen in Figs. 2 and 6, the sidewall 22 also has a ring-like bulge 34 projecting outwardly from the outer surface 36 of the sidewall with the outwardly directed ring-like bulge also being formed from a plurality of vertically extending and uniformly spaced ribs 38. The inner and outer surfaces of the sidewall define a sidewall thickness therebetween with the sidewall thickness of the bulges at said ribs being greater than between adjacent ribs and at other locations on the sidewall.

In the Claims:

Claims 13-15 have been cancelled.

Claims 1, 4, 11 and 16 have been amended as follows:

1. (Amended) A nestable press formed container made at least partially of paperboard having a continuous sidewall with inner and outer surfaces defining a sidewall thickness therebetween and upper and lower edges, and a bottom wall formed along said lower edge of the sidewall, said sidewall being downwardly convergent and having a bulge projecting inwardly from said inner surface of the sidewall, and at least one bulge projecting outwardly from the outer surface of said sidewall, said thickness of the sidewall being greater at at least some locations along said bulges than at other locations on said sidewall, said at least one outwardly projecting bulge adapted to cooperate with the inwardly directed bulge of an underlying nested container to encourage aligned stacking of the containers.

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4. (Amended) The container of claim 3 wherein said inwardly and said at least one outwardly directed bulges include a plurality of peripherally spaced ribs which define locations in said sidewall which have a greater sidewall thickness than other locations on said sidewall.

11. (Amended) The container of claim 10 wherein said second outwardly projecting bulge includes a plurality of peripherally spaced ribs which define locations in said sidewall which have a greater sidewall thickness than other locations on said sidewall.

16. (Amended) The container of claim [15] 1 wherein said container is made of a material that is a laminate that further includes a microwave susceptor layer.

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